

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

1201 NORTH MARKET STREET
P.O. Box 1347
WILMINGTON, DELAWARE 19899-1347

302 658 9200
302 658 3989 FAX

JACK B. BLUMENFELD
302 351 9291
302 425 3012 FAX
jblumenfeld@mnat.com

August 25, 2006

BY ELECTRONIC FILING

The Honorable Kent A. Jordan
United States District Court
844 North King Street
Wilmington, DE 19801

Re: *Biovail v. Andrx Pharmaceuticals LLC et al.*,
Civil Action No. 05-586 (KAJ)

Dear Judge Jordan:

As discussed below, the Parties have jointly agreed to propose to Your Honor a revised case schedule as set forth in the enclosed Third Revised Scheduling Order.

In this patent litigation, Biovail sued Andrx based on Andrx's filing of an Abbreviated New Drug Application seeking to market a generic version of Biovail's Cardizem LA® product. As Your Honor may recall, during the June 13, 2006 Status Conference, Biovail informed the Court that it anticipated the issuance of a new, additional patent that covers its Cardizem LA® product. In addition, Biovail stated that the issuance of that patent would likely result in another complaint, and suggested that the new action, if filed, should be consolidated with the current action. Because the issue date of the new patent was unknown, the Court revised the case schedule only as to the expert disclosure dates.

Unfortunately, there has been a delay in the issuance of that new patent. However, based on Patent Office records, it appears to be in the final stages of the publication process, and likely will issue within the next month. Given the circumstances, and to provide for a modest extension of the due date for rebuttal expert reports, the Parties propose the following adjustment:

The Honorable Kent A. Jordan

August 25, 2006

Page 2

<u>Event</u>	<u>Current Date</u>	<u>Proposed Date</u>
Rebuttal Expert Reports	September 7, 2006	September 11, 2006
Discovery Cut Off	September 5, 2006	October 13, 2006
Claim Construction	September 5, 2006	October 13, 2006
Issue Identification		
Dispositive Motions	October 2, 2006	October 27, 2006
and Claim Construction	October 2, 2006	October 27, 2006

Additionally, the Parties believe that it would be more beneficial to the Court to present one technology tutorial that addresses both the patent currently in-suit and the one expected to issue. Furthermore, the Parties believe that the tutorial, currently scheduled for September 14, 2006, would be more beneficial to the Court if given at a time close to trial. Therefore, the Parties jointly request that the September 14 tutorial be rescheduled to a date closer to trial.

Respectfully,

/s/ Jack B. Blumenfeld

Jack B. Blumenfeld (#1014)

/klm

Enclosure

cc: Peter T. Dalleo, Clerk (By Hand)
 Joseph M. O'Malley, Jr., Esquire (By E-Mail)
 Richard L. Horwitz, Esquire (By Hand and E-Mail)
 Steven A. Maddox, Esquire (By E-Mail)